

Royal Court House
St. Peter Port,
Guernsey
GY1 2NZ

Telephone +44(0) 1481 221747

CODE OF CONDUCT

COMPLAINT AGAINST DEPUTY V OLIVER

FINDINGS OF THE INVESTIGATION PANEL

Deputy Victoria Oliver is a Member of the States of Deliberation.

On 16 March 2023, Mrs Mary Lowe wrote to the States Members' Conduct Panel asserting that Deputy Oliver had breached the Code of Conduct by inaccurately telling the members of the Development & Planning Authority what Mrs Lowe did when she was President of the Committee *for* Home Affairs regarding the then Deputy Graham and the ending of his Vice-Presidency of that Committee. Mrs Lowe asserted that what Deputy Oliver said was in breach of sections 6, 8 and 9 of the Code of Conduct.

Section 6 of the Code of Conduct is in the following terms:

Members shall observe the following general principles of conduct for holders of public office –

- ***Selflessness*** *Members shall take decisions solely in terms of the public interest. They shall not do so in order to gain financial or other material benefits for themselves, their family or friends, their business associates or any voluntary or charitable organisation with which they are involved.*

- ***Integrity*** *Members shall not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.*

- **Objectivity** *In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, Members shall make choices on merit, and at no time improperly discriminate against or afford undue preferential treatment to any group or individual.*

- **Accountability** *Members are accountable for their decisions and actions to the States and the public and must submit themselves to whatever scrutiny is appropriate to their office.*

- **Openness** *Members shall be as open as possible about all decisions and actions that they take and must not knowingly deceive or mislead. They shall give reasons for their decisions and restrict information only when the wider public interest, or statutory provision, clearly demand.*

- **Honesty** *Members have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.*

- **Leadership** *Members shall promote and support these principles by leadership and example.*

Section 8 is in the following terms:

Members shall at all times conduct themselves in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of the States of Deliberation and never undertake any action which would bring the States, or its Members generally, into disrepute.

Section 9 is in the following terms:

Members shall at all times treat other Members, civil servants and members of the public with respect and courtesy and without malice, notwithstanding the disagreements on issues and policy which are a normal part of the political process.

The Chairman undertook an initial assessment of the complaint and determined that prima facie evidence had been submitted to support it. An Investigation Panel to consider the complaint was therefore established and Deputy Oliver was asked to respond to the complaint.

The Investigation Panel was convened and comprised the Very Reverend John Guille as Chairman, Ms Louise Hall and Mr Micky Fooks.

The Panel had separate meetings with Mrs Lowe and Deputy Oliver. The Panel is grateful to Mrs Lowe and to Deputy Oliver for their written and detailed oral submissions.

The Panel considered Mrs Lowe's complaint in three parts:

- A) That, in her capacity as President of the Development & Planning Authority (“**DPA**”), Deputy Oliver had misled the members of the DPA at a meeting held on 18 January 2023 (“**the 18 January Meeting**”) by telling them that she was able to remove her Vice-President because, in 2018, Mrs Lowe had removed her Vice-President from the Committee *for* Home Affairs (“**CfHA**”) as she had not wanted to work with him. Mrs Lowe complains that this statement was wrong, that Deputy Oliver made the statement knowing it to be wrong and that the statement is defamatory. The incorrect statement is referred to in these findings as “**the Misstatement**” for brevity;
- B) That, in a statement she made (or caused to be made) to the Press on 13 March 2023 in response to a Press enquiry, Deputy Oliver claimed that she had extended her apologies to Mrs Lowe for the Misstatement one week earlier (i.e. on 6 March 2023) when in fact the apology was only forthcoming following the Press enquiry;
- C) That, despite assurances from Deputy Oliver that she had formally apologised to the members of the DPA for the Misstatement and that she had caused the Misstatement to be corrected on the official record, Deputy Oliver had failed to demonstrate to Mrs Lowe's satisfaction that she had done so.

Part A

That, in her capacity as President of the DPA, Deputy Oliver had misled the members of the DPA at a meeting held on 18 January 2023 by telling them that she was able to remove her Vice-President because, in 2018, Mrs Lowe had removed her Vice-President from the Committee for Home Affairs as she had not wanted to work with him. This statement is wrong, Deputy Oliver made the statement knowing it to be wrong and is defamatory.

Mrs Lowe told the Panel that she had first become aware of the Misstatement on 27 February 2023 when she had been copied into an e mail sent to Deputy Oliver by Deputy Andrew Taylor. In his e mail Deputy Taylor referenced the Misstatement and invited Deputy Oliver to set out the comments she made and her reasoning so that Mrs Lowe might respond.

Mrs Lowe said she sent an e mail to Deputy Oliver the same day (“**Mrs Lowe’s First E mail**”) before receiving any response from Deputy Oliver. In Mrs Lowe’s First E mail she wrote that she had never put a motion to the CfHA to have her Vice-President removed; rather he had chosen to resign when he became a member of the Committee *for* Education, Sport & Culture. Mrs Lowe had asked him to stay on as Vice-President. He had reconsidered but, later, after the members of CfHA had asked him once again to remain as Vice-President, he had reluctantly gone through with his resignation. Mrs Lowe’s First E mail incorporated a data subject access request covering the comments referenced by Deputy Taylor.

Mrs Lowe told the Panel that the period from her Vice-President first wanting to resign to confirming his resignation had been about three months. She said that Deputy Oliver was a member of CfHA during this period and knew very well that the Vice-President wanted to resign and that she (Mrs Lowe) had tried to persuade him to stay.

In Mrs Lowe’s view, this could not have been a lapse of memory on Deputy Oliver’s part. She described Deputy Oliver’s behaviour as “appalling” and said that, by using the Misstatement and naming Mrs Lowe to justify the removal of her own Vice-President from the DPA, Deputy Oliver had brought the credibility of the States into disrepute.

Deputy Oliver told the Panel that she had no memory of making the Misstatement. She said that when she had first read Mrs Lowe’s First E mail (which was on 28 February 2023, the day after it was sent) she had said to the Director of Planning, Mr Jim Rowles, “*Mary is*

correct". Deputy Oliver could not recall what she had said at the 18 January Meeting and nor could Mr Rowles.

Deputy Oliver asked Mr Rowles to obtain a transcript which was provided to Mrs Lowe in response to her data subject access request. The transcript read: "*We've had it that Mary didn't want [name redacted] as Vice-President anymore so she just brought a thing exactly the same as here for the Committee, [name redacted] could stand again or as she chose she said that she wanted [name redacted] so we voted on it and then that was the decision made, it is a Committee decision*".

On reading the transcript, Deputy Oliver realised she had made an incorrect statement to the members of the DPA. Deputy Oliver described the Misstatement as "an inadvertent error". When asked by the Panel if she could remember why she had made the Misstatement, Deputy Oliver said she could not.

When asked by the Panel if she could see that the Misstatement was favourable to removing Deputy Taylor by a committee vote, Deputy Oliver agreed that it was, but repeated that she had no memory of making the Misstatement and could not recall why she made it.

Deputy Oliver told the Panel that she had been very unwell at the time of the 18 January Meeting and said that she had attended the meeting by Teams. She said, with hindsight, she should not have attended the 18 January Meeting. Deputy Oliver produced a doctor's letter to the Panel which gave details of her medical condition and confirmed that she had been signed off work at the relevant time.

The Panel concluded that, whilst Deputy Oliver's medical condition may have affected her memory of the circumstances of the Vice-President of CfHA stepping down, it was not determinative either way.

However, the Panel noted paragraph 8 of the Code which requires that "*Members shall at all times conduct themselves in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of the States of Deliberation and never undertake any action which will bring the States, or its members generally, into disrepute*".

Further, the Panel noted paragraph 6 of the Code which requires that “*Members shall observe the following general principles of conduct for holders of public office... Accountability: Members are accountable for their decisions and actions to the States and the public and must submit themselves to whatever scrutiny is appropriate to their office*”.

A consequence of the Misstatement was that the Guernsey Press published an article headlined “DPA President Accused of Lying to Oust Vice President”. The article included a statement from Deputy Oliver that she had spoken in error.

The Panel finds that Deputy Oliver’s conduct did not tend towards maintaining and strengthening public confidence in her. The Panel is of the opinion that it is reasonable for the public to expect a States Deputy to have ascertained the facts before making a statement which might influence a vote or decision and to be lucid and rational when conducting their political duties so that they may be accountable for their actions. The Panel is further of the opinion that this expectation is enhanced in the case of a President of a political committee.

If Deputy Oliver had followed her doctor’s advice not to attend work or, alternatively, had taken the time to ascertain facts which were pertinent to matters discussed at the 18 January Meeting before attending the meeting, the Misstatement could have been avoided.

The Panel therefore finds a breach of paragraph 8 and of paragraph 6 of the Code.

Part B

That, in a statement she made (or caused to be made) to the Press on 13 March 2023 in response to a Press enquiry, Deputy Oliver claimed that she had extended her apologies to Mrs Lowe for the Misstatement one week earlier (i.e. on 6 March 2023) when in fact the apology was only forthcoming following the Press enquiry.

Mrs Lowe’s complaint sets out how she received no direct communication from Deputy Oliver concerning the Misstatement until 13 March 2023. This was 55 days from the date of the Misstatement and 15 days from the date of Mrs Lowe’s First E mail.

Mrs Lowe told the Panel that she believed Deputy Oliver’s contact on 13 March (three times by telephone at 17:49, 18:17 and 18:20), once by text (time unknown but between 18:03 and 18:23) and once by email (at 19:30)) had been prompted by a Press enquiry made earlier the

same day. Mrs Lowe referred the Panel to the contents of Deputy Oliver's e mail sent at 19:30 which reads: "Mary – *I tired (sic) to call you but you requested I email you. Jim Rowles emailed on my behalf but please accept this email as a formal apology*".

Mrs Lowe produced to the Panel the e mail (dated 6 March 2023) from Mr Rowles referred to by Deputy Oliver which reads: "*Dear Mary, Deputy Oliver has asked me to inform you that she accepts that what she said was incorrect, that this was an inadvertent error and that she will make a formal apology for it at the next meeting. Kind regards, Jim*".

Mrs Lowe took issue with Deputy Oliver's e mail on two counts: first, Mr Rowles e mail dated 6 March 2023 did not contain an apology to Mrs Lowe, it simply stated that Deputy Oliver would make a formal apology for the inadvertent error at the next DPA meeting; and secondly, the Press article printed on 14 March 2023 following the Press enquiry included an incorrect statement from Deputy Oliver that she had "*extended my apologies to [Mrs Lowe] a week ago, when my error was brought to my attention*".

Deputy Oliver told the Panel that she had first read Mr Rowles' e mail dated 6 March 2023 on 14 March 2023, that is, after she had approved the response to the Press enquiry which she did on 13 March 2023. She said that she had believed, when she approved the response, that Mr Rowles had extended her apologies to Mrs Lowe.

The Panel notes paragraph 9 of the Code which requires that "*Members shall at all times treat other members, civil servants and members of the public with respect and courtesy and without malice, notwithstanding the disagreements on issues and policy which are a normal part of the political process*". The Panel construes 'shall' in paragraph 9 as imposing a mandatory obligation, regardless of whether the treatment is intentional or inadvertent.

The Panel finds a lack of respect and courtesy in Deputy Oliver's dealings with Mrs Lowe in that:

- despite the material error in the Misstatement, Deputy Oliver did not see fit to make a personal apology to Mrs Lowe;
- Deputy Oliver delegated the apology to her Senior Officer; and
- Deputy Oliver failed to check what Mr Rowles had written to Mrs Lowe before the e mail was sent, waiting eight days before she did so.

This lack of respect and courtesy led to a delay in Mrs Lowe receiving an apology. It also led to an incorrect statement (albeit inadvertently on Deputy Oliver's part) being printed in the Guernsey Press.

The Panel therefore concluded that Deputy Oliver had breached section 9.

Part C

That, despite assurances from Deputy Oliver that she had formally apologised to the members of the DPA for the Misstatement and that she had caused the Misstatement to be corrected on the official record, Deputy Oliver had failed to demonstrate to Mrs Lowe's satisfaction that she had done so.

Mrs Lowe told the Panel that Mr Rowles, Director of Planning, had e mailed her on 6 March 2023 informing her that Deputy Oliver would be making a formal apology for the Misstatement 'at the next Committee'. Mrs Lowe had subsequently made a data subject access request by e mail dated 26 March 2023 asking for a transcript of all discussions surrounding the formal apology from Deputy Oliver anticipated in Mr Rowles' e mail. Mrs Lowe had expected the apology to have been given at the DPA meeting scheduled for 10 March 2023.

In response to this request, Mrs Lowe had received an e mail dated 29 March 2023 from Mr Rowles setting out an extract of a recording of a DPA meeting held on 15 March 2023 ("**the 15 March DPA Meeting**"). This extract disclosed a conversation between three unnamed deputies which named Mrs Lowe but did not contain a formal apology or reference an official correction of the record.

Mrs Lowe also received an e mail from Deputy Oliver dated 29 March 2023 which included the following:

"...I would like to confirm that, as I had promised to do, I did make an apology in relation to my previous statement concerning the Committee for Home Affairs at the D&PA's meeting on 15 March 2023.

In my apology I made clear that my statement during the Committee's meeting on 18th January 2023 concerning replacement of the Vice-President of the Committee for Home Affairs had inadvertently been incorrect and I apologised for this error.

I repeat this apology to you and hope that you will accept this and that we can now draw a line under this unfortunate matter”.

Mrs Lowe told the Panel that she was not satisfied with these two responses. Firstly, the extract which Mr Rowles had provided was from the DPA meeting held on 15th March 2023, not from the DPA meeting held on 10th March 2023 which she had requested. Secondly, Deputy Oliver’s email made no reference to Mrs Lowe being named in the formal apology.

Mrs Lowe told the Panel that it was of utmost importance to her that the record should be corrected (and to be shown to have been corrected) to the effect that at no time did she ever take it to the CfHA to have her vice-president removed on the basis she did not want to work with him any more.

Because she was not satisfied with the responses she had received, Mrs Lowe had emailed all DPA members on 2 April 2023. In her email Mrs Lowe sought an assurance from Deputy Oliver that she would make a formal apology at the next DPA meeting and raised a further data subject access request for “*the relevant discussion and extracts from [Deputy Oliver’s] dreadful behaviour*”.

Deputy Oliver told the Panel that the DPA meeting on 10 March 2023 had been an open planning meeting and that it would not have been appropriate to discuss the Misstatement or give the formal apology at the meeting.

Deputy Oliver told the Panel that she had not been involved in the production of the transcript of the 15 March DPA Meeting and had not seen it before it was sent out to Mrs Lowe. Deputy Oliver said that the minutes of the 15 March DPA Meeting will reflect that she gave a formal apology at the meeting to the members of the DPA. She also told the Panel that she had extended the 15 March DPA Meeting to try to ensure that all members would hear her apology.

Following the Panel meeting on 3 April 2023, the Panel agreed to delay its written determination of the issues pending production of a relevant transcript from the 15 March DPA Meeting.

On 17 April 2023, the following information was provided in writing by Ms Jayne Roberts Development Control Manager (Planning Service):

“Extract summary of Committee Meeting 15th March 2023

Deputy Oliver apologised for what she said in the last meeting (which would have been 8th February) with reference to the Vice-Presidency and hoped that it didn't persuade anyone one way or the other how they voted. Deputy Oliver reiterated again that she was very sorry for what she said”.

The Panel notes paragraph 9 of the Code which requires that *“Members shall at all times treat other members, civil servants and members of the public with respect and courtesy and without malice, notwithstanding the disagreements on issues and policy which are a normal part of the political process”.*

Further, the Panel notes paragraph 6 of the Code which requires that *“Members shall observe the following general principles of conduct for holders of public office... Openness: Members shall be as open as possible about all decisions and actions that they take and must not knowingly deceive or mislead. They shall give reasons for their decisions and restrict information only when the wider public interest, or statutory provision, clearly demand.”*

The Panel notes that the extract summary of the 15 March DPA Meeting records that Deputy Oliver apologised. However, the Panel notes that this apology was for *“what [Deputy Oliver] said in the last meeting (which would have been 8th February) with reference to the Vice-Presidency”.*

The Panel finds Deputy Oliver's apology to be unsatisfactory on three counts: firstly, there is no indication which vice-presidency Deputy Oliver was referring to in her apology; secondly, there is no clear and incontrovertible statement from Deputy Oliver that what she had said at the 18 January 2023 was incorrect; and thirdly there is no indication that the record has been corrected to make clear that Mrs Lowe never brought a motion to remove her vice president because she did not want to work with him any more.

The Panel therefore finds that Deputy Oliver's conduct, in giving an unsatisfactory apology, demonstrates a lack of respect and courtesy to Mrs Lowe and is in breach of paragraph 9 of the Code.

The Panel also finds that Deputy Oliver's failure to correct the record by failing to make a clear statement that Mrs Lowe never brought a motion to remove her Vice-President because she did not want to work with him transgresses the principle of openness in paragraph 6. For the avoidance of doubt, the Panel does not find, in this respect, that Deputy Oliver knowingly intended to deceive or mislead.

The Panel therefore finds a breach of paragraph 6 of the Code.

For completeness, the Panel notes the reference in the extract summary provided by Ms Roberts to a committee meeting on 8 February 2023, not previously referred to by or on behalf of Deputy Oliver. This raises the question of whether the date of the meeting recorded in extract is incorrect and should be to 18 January 2023, or whether a further misstatement was made by Deputy Oliver at a DPA meeting on 8 February 2023. Further exploration of this matter is deemed to be outside the scope of this complaint.

Deputy Oliver had admitted that her conduct fell below what was expected of States' Members. She had offered to apologise and ensure the record was corrected.

The Panel agreed that Deputy Oliver's conduct fell below what was expected of States' Members and she had therefore breached the Code of Conduct.

In determining what, if any, sanction should be imposed for the breaches, the Panel had regard to the following factors.

Seriousness

Deputy Oliver had used a statement, which she later remembered was completely incorrect, to justify her actions. Although she could not now recall why she had made it, she had made it as a categorical statement of the facts and this was regarded as an aggravating factor.

Experience

Deputy Oliver has been a Member of the States for nearly seven years and therefore has longer States experience than more than half of her colleagues. The fact that she is a multi-term Member and the President of a States Committee were aggravating factors.

Impact of conduct

The Panel was told by Mrs Lowe that she regarded Deputy Oliver's behaviour as "appalling". Deputy Oliver's Misstatement had materially misrepresented both Mrs Lowe's position and the position of former Deputy Richard Graham. Further, the Misstatement could have resulted in Deputy Taylor being removed from a political office to which he had been properly elected. These were therefore aggravating factors.

Inadvertence or culpability

Deputy Oliver's explanation was that she had no recollection of having said the words in the Misstatement and was very unwell at the time. The doctor's letter produced by Deputy Oliver was not determinative of whether or not she had deliberately misled her committee or had misremembered what had happened in 2018. This was therefore a neutral factor.

Self-referral

Deputy Oliver had not referred herself to the Panel. This was therefore an aggravating factor.

Personal mitigating factors

The doctor's letter confirmed that Deputy Oliver had been acutely unwell when she attended the DPA meeting on 18th January when she made the Misstatement.

Other mitigating or aggravating factors

Deputy Oliver made an apology at the 15 March DPA Meeting for what she said with reference to the vice presidency. Despite the lack of clarity around which vice presidency Deputy Oliver was referring to, the Panel is prepared to accept that this apology relates to the matters complained of by Mrs Lowe. The apology predated the complaint. These were mitigating factors. However, the apology failed to correct the official record. This was an aggravating factor.

Sanction

Although we find that the complaint has been substantiated in parts, there has been no determination that Deputy Oliver deliberately misled the other members of the DPA at the 18th January Meeting. In considering the parts of the complaint which we found to be substantiated by reference to the scale of seriousness, and taking into account the above factors, we find that those breaches were minor breaches falling under section 38 of the Code which can be disposed of by cautioning Deputy Oliver. If such caution is accepted, a report of our decision will then be forwarded to the Presiding Officer and to His Majesty's Greffier, so that the report can be made available to members of the public.

The Panel believes that it would also be appropriate for Deputy Oliver to fulfil the offer she made in the meeting to correct the record so as to make clear that Mrs Lowe did not take a motion to CfHA to have her vice president removed as she did not want to work with him, rather former Deputy Graham chose to resign despite Mrs Lowe's efforts to retain him in post.

The Very Rev'd J. Guille

Ms L. Hall

Mr M. Fooks

Dated 20th April, 2023